

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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FAUN O'NEEL, individually and as
Guardian Ad Litem for her
children B.T., A.O., D.O., and
A.T.,

Plaintiffs,

v.

CITY OF FOLSOM, a public entity;
SPENSER HEICHLINGER, an
individual; MELANIE CATANIO, an
individual; LOU WRIGHT, an
individual; DOE CITY OF FOLSOM
DEFENDANTS, individuals; KERYN
STARKS, an individual; SASHA
SMITH, an individual; COUNTY OF
SACRAMENTO, a public entity; DOE
DCFAS DEFENDANTS, individuals;
and DOES 1 through 10,
inclusive,

Defendants.

No. 2:21-cv-02403 WBS DB

ORDER

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Defendant County of Sacramento ("defendant") filed an
ex parte application to extend discovery and trial deadlines.
(Appl. (Docket No. 53).) Plaintiffs opposed. (Opp'n (Docket No.

1 54).)

2 On September 5, 2023, plaintiffs filed their Third
3 Amended Complaint ("TAC"). (Docket No. 49.) The TAC adds two
4 defendants¹, three judicial deception & continued detention
5 claims, and new allegations for damages. (Id.; Appl. Mem.
6 (Docket No. 53-1) at 2-4.) Defendant seeks a 90-day extension to
7 discovery and trial-related deadlines to conduct discovery
8 relating to these additions. Plaintiffs argue that this is not
9 an earnest request because fact discovery has now been open for
10 over a year, but none of the defendants have made any discovery
11 requests or attempted to depose any witnesses. (Opp'n at 2.)
12 Plaintiffs further allege that they would be prejudiced by an
13 extension because it would add to their legal expenses. (Id. at
14 5.)

15 Parties conferred, unsuccessfully, about a stipulated
16 agreement for extending deadlines. Plaintiffs offered defendant
17 a 30-day extension of all pre-trial dates, but only if all
18 defendants would stipulate that expert testimony on the issue of
19 exigency/warrantless removals "do[es] not apply." (Appl. Mem. at
20 4.) That offer was apparently declined, and defendant's instant
21 ex parte application is the result.

22 A party seeking to modify a scheduling order must make
23 a showing of good cause, a standard which focuses on the
24 diligence of the moving party. Fed. R. Civ. P. 16(b)(4); Johnson
25 v. Mammoth Recreations, Inc., 915 F.2d 604, 608-09 (9th Cir.
26 1992). Plaintiffs' recent filing of the TAC and defendant's

27 ¹ One of the new defendants, Sasha Smith, is now
28 represented by the County of Sacramento. (Appl. Mem. at 4.)

reasonable diligence in seeking an extension shortly thereafter provide sufficient good cause to modify the scheduling order. Further, while the court takes note of plaintiffs' charge that no defendant has undertaken any discovery up to this point, plaintiffs fail to demonstrate any concrete, overriding prejudice they would suffer from any extension. Accordingly, the court will extend discovery and trial-related deadlines by 60 days, with adjustments as necessary to account for weekends, holidays, and the court's availability for pretrial conference and trial.

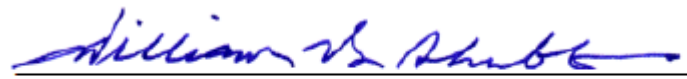
IT IS THEREFORE ORDERED that the Stipulated Request to Continue Pre-Trial Deadlines Order (Docket No. 46) and Status (Pretrial Scheduling) Order (Docket No. 34) be, and the same hereby are, MODIFIED as follows:

Deadline	Existing	As Modified
Disclosure of experts and production of Fed. R. Civ. P. 26(a)(2) reports	September 28, 2023	November 27, 2023
Disclosure of rebuttal experts and production of Fed. R. Civ. P. 26(a)(2) reports	October 16, 2023	December 15, 2023
Completion of all discovery, including depositions for preservation of testimony; all discovery motions	November 22, 2023	January 19, 2024

Deadline	Existing	As Modified
All motions, except motions for continuances, temporary restraining orders, or other emergency applications	December 15, 2023	February 13, 2024
Final pretrial conference	February 26, 2024, at 1:30 p.m. in Courtroom No. 5	May 6, 2024, at 1:30 p.m. in Courtroom No. 5
Jury trial	April 23, 2024	June 25, 2024, at 9:00 a.m. at Courtroom No. 5

IT IS SO ORDERED.

Dated: September 28, 2023


WILLIAM B. SHUBB
 UNITED STATES DISTRICT JUDGE